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10/512,010	10/19/2004	Erik Johnsson	35301	8399

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HOVEY WILLIAMS LLP
10801 Mastin Blvd., Suite 1000
Overland Park, KS 66210

EXAMINER	
VALENTI, ANDREA M	
ART UNIT	PAPER NUMBER
3643	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/512,010	JOHNSSON ET AL.	
	Examiner	Art Unit	
	ANDREA M. VALENTI	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,7-11,23-26 and 29-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,7-11,23-26 and 29-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 4, 7, 9, 10, 23, 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0185071 to Guo in view of U.S. Patent No. 3,556,053 to Padman et al.

Regarding Claims 1 and 31, Guo teaches a milking stall comprising: a milking machine to be attached to the teats of the animal to be milked (Guo paragraph [0005]); and a device separate from and fluidically remote from said milking machine for cleaning the teats of an animal, including at least one first conduit member (Guo Fig.1 #16 and 18) and at least one teat-cleaning member (Guo #20), which is connectable via the first conduit member to a central arrangement for supplying cleaning liquid and discharging waste liquid. Essentially Guo teaches a separate teat cleaning apparatus that is used prior to a milking operation that has a first conduit that consists of a supply line and discharge line (Guo #16 and #18) fluidically connected to a central arrangement. Guo is silent on a plurality of teat cleaning devices running off of one system. However, Padman teaches that the configuration of functioning multiple teat devices via a claw/manifold is old and notoriously well-known. In other words, Padman teaches a plurality of teat cup devices, each cup adapted to be applied to respective on

of the teats, with a first conduit (Padman Fig.1 #14 and 13) connected to a central arrangement; the teat member includes at least two teat cups (Padman Fig. 1 #11) to be applied to a respective teat of the animal, a conduit assembly (Padman #12) and two second conduit members (Padman Fig. 1 members connecting the teat member to element #12) extending between a respective one of the teat-cleaning cups and the conduit assembly, and wherein each teat-cleaning cup is fluidically connected to the central arrangement via the respective second conduit members and the first conduit member wherein the supply conduit of each second conduit member is connected to the supply conduit of the first conduit member, and that the discharge conduit of each second conduit member is connected to the discharge conduit of the first conduit member. Thus, Guo teaches the teat cleaning cup and system that is fluidaically separate from the milking system, but is silent on operating multiple teat cleaning cups off of one system. Padman teaches a milking stall, milking machine and a plurality of teat cups, and the old and notoriously well-known manifold set-up for operation of multiple teat cleaning devices. It would have been obvious to one of ordinary skill in the art to modify the teachings of Guo with the teachings of Padman at the time of the invention since *the modification is merely applying a known technique to a known device ready yielding predictable results*. The modification is merely the duplication of a known element i.e. milking stall and teatcups for a multiple effect for a more efficient operation of the system.

Guo as modified teaches wherein the conduit assembly includes a connection member which connects each second conduit member to the first conduit member

(Padman Fig.1 #16; through a series of connections all the components illustrated in Fig. 1 are connected by connection members; applicant has not claimed "directly connected" nor has applicant claimed the structure of the connection member, if it is a physical structural connection or a fluid connection).

Regarding Claim 2, Guo as modified teaches wherein the central arrangement is arranged to discharge the waste liquid by applying a pressure significantly lower than the atmospheric pressure to the teat-cleaning cups via the conduit members (Guo paragraph [0027]).

Regarding Claim 4, Guo as modified teaches the central *arrangement* is arranged to perform the supplying of cleaning liquid and the discharging of waste liquid simultaneously (Guo arrangement of #16 and 18).

Regarding Claim 7, Guo as modified teaches the conduit assembly includes a connection member arranged to hold the conduit members together (Guo #12).

Regarding Claim 9, Guo as modified teaches each second conduit member is relatively rigid permitting the second conduit member and the associated teat- cleaning cup to extend in an upward direction (Padman Fig. 1 members between #11 and #12 are “relatively rigid”).

Regarding Claim 10, Guo as modified teaches the teat-cleaning member includes a grip member permitting holding of the teat-cleaning member (Guo #50).

Regarding Claim 23, Guo as modified teaches each teat-cleaning cup includes a lower end, an upper end and an inner space, the upper end defining an opening for the introduction of the teat to be cleaned into the inner space (Guo Fig. 6).

Regarding Claim 26, Guo as modified teaches the teat-cleaning device includes a retracting member arranged for retracting the teat-cleaning member from the teats of the animal after the cleaning operation is finished (Padman Col. 1 line 61-62).

Claims 24, 25, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0185071 to Guo in view of U.S. Patent No. 3,556,053 to Padman et al as applied to claim 1 above, and further in view of European Patent EP 0207572 to Van der Lely.

Regarding Claims 24 and 25, Guo as modified teaches each teat-cleaning cup includes a flexible lip extending around the opening and inwardly towards a center of the opening in order to abut tightly the teat introduced into the inner space of the teat-cleaning cup; wherein the lip slopes downwards towards the center of the opening (Guo Fig. 7 #70). Guo as modified is silent on the lip is flexible and slopes downwardly; however, Van der Lely teaches a teat cup cleaning lip that is flexible and slopes downwardly (Van der Lely Fig. 1 #19 and page 9 line 4). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Guo with the teachings of Van der Laly at the time of the invention since the modification is merely the simple substitution of a known alternate teat cup lip yielding predictable results for comfort of the animal and a better fit.

Regarding Claim 29, Guo as modified teaches a plurality of milking stalls, but is silent on the configuration of the milking stall. However, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Guo at the time of the

invention since the modification is merely a duplication of a known element for a multiple effect and the configuration is merely an engineering design choice involving the selection of a known milking stall configuration to efficiently meet the needs of the farmer depending on the size of the herd and space constraints [In re Harza, 274 F.2d 669, 671,124 USPQ 378, 380(CCPA 1990)].

Regarding Claim 30, Guo as modified teaches a pneumatic application of the teat cups (Van der Lely #9), but is silent on explicitly teaching it is automatic. However, it is old and well-known to provide automatic milking equipment for large scale dairy farms to reduce labor for fast and efficient operations. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Guo at the time of the invention since the engineering design choice of automating a system is an obvious modification for one of ordinary skill in the art for efficient operation [In re Venner, 262 F.2d 91,95, 120 USPQ 192, 194 (CCPA 1958)].

Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/0185071 to Guo in view of U.S. Patent No. 3,556,053 to Padman et al as applied to claim 1 above, and further in view of U.S. Patent No. 5,586,518 to Carrano.

Regarding Claim 8, Guo as modified is silent on the teat-cleaning member includes a casing enclosing the connection member and having a first opening for the passage of the first conduit member and at least two second openings for the passage of a respective one of the second conduit members. However, Carrano teaches it is

known to disguise the connections of conduit members via the claw member (Carrano #36). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Guo with the teachings of Carrano at the time of the invention since the modification is merely a safety measure and aesthetic measure to protect the connections from becoming accidentally disconnected and to give a clean aesthetic appearance.

Regarding Claim 11, Guo as modified teaches the teat-cleaning member includes a grip member permitting holding of the teat-cleaning member and wherein the grip member is provided on the casing (Carrano #94).

Response to Arguments

Applicant's arguments filed 19 May 2008 have been fully considered but they are not persuasive.

Guo does teach only on teat cups and is silent on a plurality of teat cups. However, duplication of a known element for a multiple effect performing the same intended function does not present a patentable distinction [*In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960)]. Guo was cited purely to teach that it is known to have a separate and fluidically remote device specifically to clean animal teats in conjunction with a separate milking device. Guo teaches applying a cleaning liquid through a first conduit and a conduit for discharging waste.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The examiner maintains that the combination of the teachings of Guo and Padman takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made. Padman was cited to teach the general knowledge of a known structural configuration of an assembly that attaches to animal teats. Padman teaches all of the known structural components of an assembly as an efficient means to perform a function to an animal teat. The modification of the teachings of Guo with the teachings of Padman is merely the application of a known technique to a known device ready for improvement to yield predictable results. It would have been obvious to one of ordinary skill in the art to modify the teachings of Guo with the assembly configuration of Padman to accommodate more then one teat at a time for a more efficient operation. Padman was cited to teach the general knowledge that it is known to accommodate more then on teat in as assembly i.e. to accommodate a plurality of teats. Padman was not cited to teach cleaning, but was merely cited to teach a teat configuration assembly device.

As stated in the above rejection, applicant has merely claimed "a connection member". Padman (Padman Fig.1 #16, connection member for first and second conduit) teaches through a series of connections all the components illustrated in

Padman Fig. 1 are connected by connection members; applicant has not claimed "directly connected" nor has applicant claimed the structure of the connection member, if it is a physical structural connection or a fluid connection.

Applicant has merely claimed that the conduite members are relatively rigid. Since the maintain a horizontal orientation as shown in Padman Fig. 1 they must be relatively rigid, if they were not relatively rigid then the weight of the teat cup would pull down and they would droop and not remain in a horizontal orientation. If they are capable of maintain the horizontal orientation they would be capable of maintaining a vertical orientation too.

Van der Lely was merely cited as a teaching of a known lip configuration of a teat device. The examiner is not referencing the function or the discharge of the device of Van der Lely, but merely the lip shape.

Applicant has merely claimed a “grip member”. Applicant has not claimed a structure that defines the structure of the grip member. Element #50 indicated as the grip member by the examiner is capable of being gripped and satisfies the broad limitation of the claim.

Examiner maintains that applicant has not patentably distinguished over the teachings of the cited prior art of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREA M. VALENTI whose telephone number is (571)272-6895. The examiner can normally be reached on 6:00am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrea M. Valenti/
Primary Examiner, Art Unit 3643

06 August 2008